

(2) *Grounds for decision.* For a discussion of the grounds for denying assistance because of action or inaction by the applicant, see § 982.552.

[59 FR 36682, July 18, 1994, as amended at 60 FR 34717, July 3, 1995; 61 FR 13627, Mar. 27, 1996]

§ 982.202 How applicants are selected: General requirements.

(a) *Waiting list admissions and special admissions.* The HA may admit an applicant for participation in the program either:

(1) As a special admission (see § 982.203).

(2) As a waiting list admission (see § 982.204 through § 982.210).

(b) *Prohibited admission criteria—(1) Family suitability for tenancy.* The owner selects the tenant. The owner decides whether the family is suitable for tenancy. The HA decision whether to admit an applicant to the program may not be based on an applicant's suitability for tenancy. The HA may deny assistance to an applicant because of drug-related criminal activity or violent criminal activity by family members. (See § 982.553.)

(2) *Where family lives.* Admission to the program may not be based on where the family lives before admission to the program. However, the HA may target assistance for families who live in public housing or other federally assisted housing, or may adopt a HUD-approved residency preference (see § 982.208).

(3) *Where family will live.* Admission to the program may not be based on where the family will live with assistance under the program.

(4) *Family characteristics.* Admission to the program may not be based on:

(i) Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;

(ii) Discrimination because a family includes children (familial status discrimination);

(iii) Discrimination because of age, race, color, religion, sex, or national origin;

(iv) Discrimination because of disability; or

(v) Whether a family decides to participate in a family self-sufficiency program.

(c) *Applicant status.* An applicant does not have any right or entitlement to be listed on the HA waiting list, to any particular position on the waiting list, or to admission to the programs. The preceding sentence does not affect or prejudice any right, independent of this rule, to bring a judicial action challenging an HA violation of a constitutional or statutory requirement.

(d) *Admission policy.* The HA must admit applicants for participation in accordance with HUD regulations and other requirements, and with policies stated in the HA administrative plan. The HA admission policy must state the system of admission preferences that the HA uses to select applicants from the waiting list, including any federal preference, ranking preference, local preference and residency preference.

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§ 982.203 Special admission (non-waiting list): Assistance targeted by HUD.

(a) If HUD awards an HA program funding that is targeted for families living in specified units:

(1) The HA must use the assistance for the families living in these units.

(2) The HA may admit a family that is not on the HA waiting list, or without considering the family's waiting list position. The HA must maintain records showing that the family was admitted with HUD-targeted assistance.

(b) The following are examples of types of program funding that may be targeted for a family living in a specified unit:

(1) A family displaced because of demolition or disposition of a public or Indian housing project;

(2) A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

(3) For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.):

- (i) A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173); or
- (ii) A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);
- (4) A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- (5) A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

§ 982.204 Waiting list: Administration of waiting list.

(a) *Admission from waiting list.* Except for special admissions, participants must be selected from the HA waiting list. The HA must select participants from the waiting list in accordance with admission policies in the HA administrative plan.

(b) *Organization of waiting list.* The HA must maintain information that permits the HA to select participants from the waiting list in accordance with the HA admission policies. The waiting list must contain the following information for each applicant listed:

- (1) Applicant name;
- (2) Family unit size (number of bedrooms for which family qualifies under HA occupancy standards);
- (3) Date and time of application;
- (4) Qualification for federal preference;
- (5) Qualification for any ranking preference or local preference; and
- (6) Racial or ethnic designation of the head of household.

(c) *Removing applicant names from the waiting list.* (1) The HA administrative plan must state HA policy on when applicant names may be removed from the waiting list. The policy may provide that the HA will remove names of applicants who do not respond to HA requests for information or updates.

(2) An HA decision to withdraw from the waiting list the name of an applicant family that includes a person with disabilities is subject to reasonable accommodation in accordance with 24 CFR part 8. If the applicant did not respond to the HA request for information or updates because of the family member's disability, the HA must rein-

state the applicant in the family's former position on the waiting list.

(d) *Family size.* (1) The order of admission from the waiting list may not be based on family size, or on the family unit size for which the family qualifies under the HA occupancy policy.

(2) If the HA does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, the HA may not skip the top family to admit an applicant with a smaller family unit size. Instead, the family at the top of the waiting list will be admitted when sufficient funds are available.

(e) *Funding for specified category of waiting list families.* When HUD awards an HA program funding for a specified category of families on the waiting list, the HA must select applicant families in the specified category.

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[59 FR 36682, July 18, 1994, as amended at 60 FR 34717, July 3, 1995; 63 FR 23860, Apr. 30, 1998]

§ 982.205 Waiting list: Different programs.

(a) *Tenant-based programs: Number of waiting lists.* (1) An HA must use a single waiting list for admissions to its tenant-based certificate and voucher programs. The HA may use a separate waiting list for such admissions for an area not smaller than a county or municipality.

(2) An HA must use the same waiting list for admission to its tenant-based certificate and voucher programs.

(b) *Merger and cross-listing—(1) Merged waiting list.* An HA may merge the waiting list for tenant-based assistance with the HA waiting list for admission to another assisted housing program, including a federal or local program. In admission from the merged waiting list, admission for each federal program is subject to federal regulations and requirements for the particular program.

(2) *Non-merged waiting list: Cross-listing.* If the HA decides not to merge the waiting list for tenant-based assistance with the waiting list for the HA's public or Indian housing program, project-based certificate program or moderate rehabilitation program: